UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
2145	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _30 April 2008_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _4,5,24,25 and 72-97_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _4,5,24,25 and 72-97_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _30 April 2008_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _20080430_.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 4/30/2008 have been fully considered but they are not persuasive.

2.   Applicant argues that neither Datta nor Chiu teach the concept of a *media aggregation manager*. The combination of Datta and Chiu perform the function of the *media aggregation managers* as claimed – a reservation aggregation point. Chiu is a reservation system for bandwidth. The mere fact that the words *media aggregation manager* were not present in either Datta or Chiu does not mean that the combination of the references fails to teach a reservation system analogous to Applicant's claimed *media aggregation manager*.

3.   Applicant argues that Chiu teaches away from *displaying second graphical representations for allocating and/or deallocating bandwidth between the first media aggregation manager and second media aggregation manager*. Chiu discloses a system of allocating and reserving bandwidth according to a preselected scheme, as admitted by Applicant. It is unclear how Applicant considers that "bandwidth allocation device (52) is capable of allocating and reserving sufficient bandwidth according to a preselected scheme corresponding to service classifications" does not meet Applicant's own cited claim language for *allocating and/or deallocating bandwidth between the first media aggregation manager and second media aggregation manager*.

4.   Applicant argues that neither Datta nor Chiu disclose displaying graphical representations. Datta simulates changes to a network. One of ordinary skill in the art is well aware that the results of a simulation must be presented to the user in some form in order to be analyzed; else there is no point in running the simulation. Since the user must see the results of the simulation, then it must necessarily display a graphical representation of some kind.

5.   Applicant argues the Office failed to provide motivation for the combination of Datta and Chiu. The Office provided three pieces of motivation. Datta gave a suggestion for a need to monitor network characteristics existed in the art. Chiu was designed to change data flows based on the monitoring of network conditions such as congestion. The Office further gave motivation for the combination by stating the reallocation of bandwidth would decrease congestion along selected paths **to provide the best**

possible service to prioritized channels of data users. *KSR v. Teleflex* clearly states the motivation

for combination need not only come from the references used, but also from common sense. *KSR* did

state there was a need for a clear rationale for obviousness. Here, the Office took the suggestions of two

prior art references, and further supplemented them with common sense network knowledge to further

enforce the motivation for the combination.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 4, 5, 24, 25, and 72-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Datta et al. (U.S. Patent No. 6,209,033) in view of Chiu et al. (U.S. Patent No. 6,744,767 B1)

8.   In regard to claims 4, 24, 76, 80, 84, 91, Datta disclosed:

displaying first graphical representations of the first media aggregation manager and the

second media aggregation manager, wherein the first and second media aggregation managers

are capable of serving as reservation session aggregation points on behalf of a first user

community and a second user community, respectively, the first user community and the second

user community coupled by a plurality of physical paths;

displaying a first projected link utilization schedule in response to a first request to

analyze the effect of conveying media packets between the first user community and the second

user community over a first path of the plurality of physical paths, the first projected link utilization

schedule illustrating predicted bandwidth usage for routers associated with the first path;

displaying a second projected link utilization schedule in response to a second request to

analyze the effect of conveying media packets between the first user community and the second

user community over a second path of the plurality of physical paths, the second projected link

utilization schedule illustrating predicted bandwidth usage for routers associated with the second

path; and

> *displaying second graphical representations for allocating or deallocating bandwidth*

between the first media aggregation manager and second media aggregation manager based on

said displayed first projected link utilization schedule and said displayed second projected link

utilization schedule.

Datta discloses network capacity and evaluation planning. A link's traffic is measured

and compared to its capacity. Simulated changes to the network configuration are then made.

An analysis is performed to see whether the new configuration is preferable to the old

configuration. See Datta, column 2, lines 22-23, lines 35-40, lines 61-67, column 3, lines 1-10,

lines 36-41, column 5, lines 10-25, column 6, lines 22-26, lines 45-65, column 7, lines 20-33.

Datta failed to disclose performing these functions with respect to the reservation and

allocation of bandwidth. However, Chiu in the analogous field of art disclosed a reservation

system for bandwidth and buffer resources at each router in a path and along alternative paths in

case of failure. See Chiu, Abstract. See Chiu, column 5, lines 49-58.

Datta suggests such a combination in column 6, lines 22-32, by discussing a need to

monitor current network characteristics, and applying plans on a short term basis to provide

timely communication services. Chiu further aids this by being designed to reallocate data flows

bandwidth for periods of congestion. Chiu, column 3, line 52 - column 4, line 13. Therefore it

would have been obvious to modify Datta with Chiu to allow for the reallocation of bandwidth to

decrease congestion along selected paths to provide the best possible service to prioritized

channels of data users.

9.   In regard to claims 5, 25, 77, 81, 85, 94, Datta further disclosed:

> *overlaying a selected path of the plurality of physical paths onto existing bandwidth*

allocations to determine a projected link utilization associated with the selected path. Datta

discloses comparing an alternate network configuration with the original network configuration in the rejection of claim 4.

10.   In regard to claims 72, 74, 78, 82, 86, 95, Datta further disclosed:

displaying the first path and the second path prioritized based upon one or more predetermined factors. See Datta, column 6, lines 21-26.

11.   In regard to claims 73, 75, 79, 83, 87, 96, Chiu further disclosed:

the one or more predetermined factors include one or more of: a number of nodes in the first path or the second path; total available bandwidth for the first path or the second path; available communications bandwidth on the first path or the second path; and physical length of travel between nodes that make up the first path or the second path. Chiu, column 13, lines 40-65.

12.   In regard to claims 88-89 and 97, Datta further disclosed:

displaying the first user community and the second user community; Figures 10-11

displaying the plurality of physical paths between the first user community and the second user community. Figures 10-11

13.   In regard to claims 90-92, Datta further disclosed:

displaying the first group of terminals and the second group of terminals; Figures 10-11

displaying the plurality of physical paths between the first group of terminals and the second group of terminals. Figures 10-11

Conclusion

14.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15.   Yoshimura et al.   US 6,125,397

16.   Riddle et al.   US 6,412,000

17.   Nordenstam et al.   US 6,442,615

18.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen
Examiner
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